

AMENDMENTS TO THE CLAIMS

The claims have been amended to address the rejections based on Younker, Bergersen and Orpaz. Specifically, claim 1 has been amended to require that the plate, on which the dental arches rest, be shaped to have limbs extending along at least a portion of the dental arches. This distinguishes over Younker, in which the illustrated mouthpiece is elliptically shaped. In other words, Younker does not show or suggest limbs that extend along the dental arches as disclosed and claimed in the present application.

A second amendment to claim 1 emphasizes that the teat of applicant's invention has both a plate and a nipple projecting from the rear thereof. This distinguishes over Younker in that Younker does not show a separate nipple as disclosed in applicant's invention. Instead, Younker shows an elliptical mouthpiece 10 which functions as a "nipple" when it is used for feeding infants through a duct which transverses the mouthpiece. Moreover, claim 1 has been amended to incorporate the requirement of claim 2 that the nipple is connected to the plate by elastic means, thus enabling the nipple to move away from the vestibular screen. This further underscores the distinction between the bulbous nipple of applicant's invention and the mouthpiece 10 shown in Younker.

A further amendment to claim 1 requires that the nipple extend rearwards beyond the ends of the limbs of the plate. This amendment further distinguishes over Younker, Bergersen and Orpaz in that Younker neither has limbs or a nipple as shown and required in applicant's invention, and Bergersen and Orpaz, while having limbs, do not have a nipple. This amendment, requiring a nipple to extend rearwards beyond the ends of the limbs of the plate, underscores that a purpose of the invention is to stimulate the stomatognathic system. This distinguishes over the purpose of Younker, which is to form the mouth of an infant during growth into an "attractive shapeliness." Likewise, this distinguishes over Bergersen, which is directed to an orthodontic device to prevent an overbite or overjet from developing in a child, while Orpaz is a gum massaging device and, like Bergersen, lacks the nipple of applicant's invention.

Applicant respectfully submits that claim 1, as now amended, distinguishes over the prior art cited in the Office Action of November 14, 2003. Not only is the structure of applicant's device clearly different, but those structural differences go to the function of applicant's teat in stimulating movement analogous to that of suckling, so that the teat performs, simultaneously, the functions of providing proper relative positioning of the dental arches in the mouth, and stimulation of the tongue and stomatognathic system. Applicant respectfully submits that only through a hindsight appreciation of the purpose and structure of applicant's teat could one analogize the structure and function of applicant's teat, having limbs and a nipple, with the elliptical mouthpiece of Younker and the U-shaped orthodontic device and gum massager of Bergersen and Orpaz, respectively. The remainder of the

amendments to the claims are not intended to relinquish subject matter, but are made to reflect new dependencies resulting from the incorporation of the subject matter of claim 2 into amended claim 1.

Younker is further distinguished by claim 5, which depends from claim 1. Claim 5 requires a substantially vertical wall at the rear edge of the plate, which cooperates with the vestibular screen to define an aligner for receiving the dental arches. Younker, however, proposes only recesses for the gums. This demonstrates that the focus of Younker is shaping the lips, rather than influencing the position of the arches as with the aligner of claim 5.

Applicant incorporates, by this reference, the discussion of Younker and Orpaz in his response to the Office Action of September 4, 2003, which identified differences between Younker and Orpaz and the applicant's invention. In comprehending the extent of the distinctions, applicant urges the Examiner to bear in mind that Younker uses the word "nipple" differently than does applicant. When Younker uses the word "nipple," Younker refers to the entirety of his device when it is used to feed an infant; this is contrasted with a "comforter" when the device does not have a duct for introducing food into the mouth of the child. (Younker, lines 71-85). The elliptical mouthpiece 10 of Younker--referenced as a "nipple" in paragraph 5 of the Office Action of November 14, 2003--bears no structural relation to the nipple of applicant's invention, which is a separate element projecting from the rear of the plate and elastically connected thereto. Applicant believes that an appreciation of these differences between the structure required by the claims of his application and Younker demonstrates that the inventions are different, and indeed each of the pending claims is patentably distinct inasmuch as Younker neither discloses nor suggests a separate nipple structure elastically connected to a plate and projecting therefrom to the back of a child's tongue.